

INSTRUCTIONS FOR COMPLETION OF UST FORM 11-MOR: MONTHLY OPERATING REPORT AND SUPPORTING SCHEDULES

I. GENERAL INSTRUCTIONS

What is the monthly operating report and who must complete it?

Every debtor in possession (“debtor”) must prepare a report of operations for each month during which the chapter 11 case is pending without a confirmed plan. If a chapter 11 trustee has been appointed, then the trustee shall prepare the report. The report consists of the UST Form 11-MOR (“MOR”) and such supporting documentation as is required by the United States Trustee. The MOR is a mandatory, data-enabled form which facilitates reporting, analysis, and public access to chapter 11 financial information. This form does not apply to small business debtors as defined in 11 U.S.C. § 101(51D).

What financial information should be included in the MOR?

Only the financial information of the debtor that filed the chapter 11 petition should be reported in the MOR. Even in cases where financial information for the debtor and related non-debtor entities are maintained in a collective or consolidated manner, only the financial information of the debtor should be reported on the MOR.

Where and when must the MOR be filed?

The MOR is filed with the bankruptcy court between the 21st day and the last day of the month immediately following the reporting period covered by the MOR. The precise deadline for filing the MOR (“due date”) is governed by the United States Trustee’s operating guidelines for the district in which the case is pending. Consult the United States Trustee’s operating guidelines when the case is filed to ensure that all MORs are timely filed.

When must the initial MOR be filed?

- **Cases filed on the 1st through 20th day of the month:** The initial MOR covers the period from the petition filing date to the last day of the month in which the petition is filed. The initial MOR is filed with the bankruptcy court by the due date. Example: A chapter 11 petition is filed April 10. The initial MOR contains the debtor’s financial information for the period April 10-30, and is filed between May 21 and May 31 on the due date prescribed in the operating guidelines of the United States Trustee.
- **Cases filed on the 21st through the last day of the month:** The initial MOR covers the period from the petition filing date to the last day of the first full calendar month after the petition was filed. The initial MOR is filed with the bankruptcy court by the due date in the second full calendar month after the petition was filed. Example: A chapter 11 petition is filed April 28. The initial MOR contains the debtor’s financial information for

the period April 28-May 31, and is filed between June 21 and June 30 on the due date prescribed in the operating guidelines of the United States Trustee.

Who should receive a copy of the MOR once it is filed?

When the MOR is filed with the court, copies should be provided to the United States Trustee, each official committee and its counsel, any taxing authority that makes a request for service, and any taxing authority required to be provided a copy by local rule. You should consult the local rules of the court where the case is pending to ensure that all copies of the MOR are properly provided to those who should receive a copy.

What information must be provided with the MOR?

All applicable information requested in the MOR must be provided including, but not limited to: (1) information about the debtor's industry classification, as published by the Department of Commerce, which may be obtained at www.census.gov/eos/www/naics; (2) the length of time the case has been pending; (3) the number of full-time employees as of the date of the order for relief and at the end of the respective reporting period for which the MOR was filed; (4) cash receipts, cash disbursements, and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief; (5) whether tax returns and tax payments since the date of the order for relief have been timely filed and made; (6) all professional fees approved by the court for the most recent period and cumulatively since the date of the order for relief; and, if applicable, (7) any plans of reorganization filed.

In addition, at the discretion of the United States Trustee, the debtor may be required to submit to the United States Trustee, creditors' committee, or any party in interest the documentation listed below as applicable to the debtor. The United States Trustee may also require additional information. Debtors and trustees should review the United States Trustee's regional Web site to ascertain what documentation and additional information must be provided. Please note that the documentation listed below is not filed with the court; only the MOR is filed with the court.

1. Statement of cash receipts and disbursements per debtor,
2. Balance sheet containing the summary and detail of the assets, liabilities, and equity (net worth) or deficit per debtor,
3. Statement of operations (profit or loss statement) per debtor,
4. Accounts receivable aging per debtor,
5. Postpetition liabilities aging per debtor,
6. Statement of capital assets per debtor,
7. Schedule of payments to professionals,
8. Schedule of payments to insiders,
9. All bank statements and bank reconciliations for the reporting period, and
10. Description of the assets sold or transferred and the terms of the sale or transfer.

What accounting methods must be used?

Any debtor who did not use a cash basis method of accounting pre-bankruptcy must use the accrual basis method of accounting to prepare the MOR and supporting documentation (with the limited modifications set forth herein). Any debtor who used a cash basis method of accounting pre-bankruptcy, however, may continue to do so in preparing such reports. For example, individuals without significant business operations typically use a cash basis method of accounting and they may continue to do so during the bankruptcy case so long as they used that method prior to filing. Regardless of which accounting method is used, if the United States Trustee requires documentation, the debtor must attach schedules of postpetition aged accounts receivable and aged accounts payable to the MOR.

Debtors must follow Generally Accepted Accounting Principles (“GAAP”) (except as modified by these instructions or by the United States Trustee). Supporting schedules must comply with applicable accounting standards as determined by the United States Trustee, such as Statement of Position 90-7, Financial Reporting by Entities in Reorganization Under the Bankruptcy Code (“SOP 90-7”), issued by the American Institute of Certified Public Accountants on November 19, 1990, as amended, and all related reorganization accounting requirements as currently included in the Financial Accounting Standards Board’s Accounting Standards Codification Section 852, Reorganization (“Codification Section 852”), as amended.

If a subsection of the MOR does not apply, how should the MOR be completed?

Every question must be answered even if it does not apply. When a subsection requiring a numerical answer does not apply, enter a zero in the space provided. For example, the individual debtor who is not self-employed may not have accounts receivable or inventory. Therefore, the individual debtor will enter zero in the lines for paragraphs (a), (b), and (c) of Part 2. The only exception is Part 7(h) where a debtor may answer with N/A.

Signatures on Behalf of the Debtor, Trustee, and Counsel

The debtor (or in the case of a corporation, partnership, or other legal entity, the individual authorized by the debtor to act on the debtor’s behalf) or the trustee must declare under penalty of perjury that the MOR and supporting documentation are true and correct. Counsel for the debtor or trustee must maintain possession of the MOR with original signatures for five years, unless a different time period is provided in local court rules. When counsel files the MOR with counsel’s name on the cover page, counsel acknowledges this obligation to retain a signed MOR. A *pro se* debtor must submit the MOR with original signatures to the Office of the United States Trustee.

II. INSTRUCTIONS FOR COMPLETING THE MOR

The UST Form 11-MOR is a mandatory form that provides information concerning the debtor's financial condition and status of operations. The form is data-enabled, meaning that data tags are embedded in the form. In addition to these instructions, drop down instructions have been embedded in the form to assist the person(s) completing the form. The drop down instructions may be accessed by placing the mouse cursor on the red arrows.

Cover Page.

Period or Month Ended: Enter the month-end date for the reporting period (e.g., March 31, 2010).

Petition Date: Enter the date on which the chapter 11 case was filed with the court.

Months Pending: Enter the number of calendar months that the case has been pending from the petition date through the month-end date for this reporting period. Count partial months as a full month. For example, if the case was filed on July 16, 2010, and the reporting period month-end date is September 30, 2010, the Months Pending entry will be three months.

Full-Time Employees: Enter the number of full-time employees on the debtor's payroll as of the end of the reporting period and on the date of the order for relief.

Part 1: Cash Receipts and Disbursements. The Statement of Cash Receipts and Disbursements provides the basis for this information. All funds received and disbursed during the reporting period, and cumulatively from the date of the order for relief, are to be included. Disbursements made by third parties for the benefit of the bankruptcy estate must be reported in Part 1(e).

The total cash receipts and disbursements for all bank and investment accounts, excluding transfers between accounts, are included. The amounts reported are from the debtor's books and records and may not match the bank statements due to transactions being recorded at different times.

Part 2: Asset and Liability Status. The Balance Sheet provides the basis for this information. Note that all business debtors, regardless of whether they are reporting using the accrual or cash basis of accounting, must include accounts receivable and accounts payable information in this Part. For individual debtors without any income from a sole-proprietorship business or self employment (full or part time), enter zero where the question does not apply (e.g., where the debtor is a self-employed attorney, he would enter zero for inventory in Part 2(c)). All amounts are to be as of the end of the reporting period, unless otherwise indicated.

- a. Enter the total of accounts receivable, prepetition and postpetition, net of the allowance for doubtful accounts;

- b. Enter the total receivables reported in subpart (a) that are over 90 days outstanding;
- c. Enter the amount of the inventory on hand at the end of the reporting period valued at the lower of cost or market;
- d. Enter total current assets as of the end of the reporting period. Current assets are those which the debtor may reasonably expect to realize in cash or consume within a year. The portion that will be realized within one year must be reported as a current asset, and the balance should be reported under Total Assets;
- e. Enter the book value of the total assets. The book value is the value at which an asset is carried on a Balance Sheet; usually it refers to the *net* amount which would be the cost of the asset less the accumulated depreciation;
- f. Enter the total postpetition payables owed;
- g. Enter the total postpetition payables that are past due;
- h. Enter the total postpetition taxes (income, payroll, personal property, use, real estate, sales, excise, and occupational) that are due;
- i. Enter the total postpetition taxes (income, payroll, personal property, use, real estate, sales, excise, and occupational) past due;
- j. Enter the total postpetition debt;
- k. Enter the total prepetition secured debt;
- l. Enter the total prepetition priority debt;
- m. Enter the total prepetition unsecured debt;
- n. Enter the total liabilities;
- o. Enter the total book value of equity (for corporations, partnerships, and limited liability companies include the owner's or shareholders' contribution, retained earnings, current profit or loss, and reserves) or net worth (for individuals).

Part 3: Assets Sold or Transferred (Outside of the Ordinary Course of Business). Enter in Part 3(a) the cash sale price of assets sold or transferred outside of the ordinary course of business; enter the total for both the current reporting period and cumulatively. Enter in Part 3(b) any portion of the cash sale price paid to third parties incident to the sale; enter the total for both the current reporting period and cumulatively since the date of the order for relief. Enter in

Part 3(c) the net cash proceeds from assets sold or transferred outside the ordinary course of business for the most recent period and cumulatively since the date of the order for relief.

Part 4: Income Statement (Statement of Operations). The Income Statement or Statement of Operations provides the basis for this information. If any question does not apply, enter zero. Businesses or individuals who are engaged in business must complete this Part.

- a. Enter the gross income and/or sales, net of returns, and allowances for the period covered by the MOR;
- b. Enter the cost of goods sold (inclusive of depreciation and/or amortization, if applicable);
- c. Enter gross profit by subtracting the amounts entered on Part 4(b) from 4(a);
- d. Enter the total of all selling expenses for the period covered by the MOR, excluding items reported in Part 4(e) through (k);
- e. Enter the total of all general and administrative expenses for the period covered by the MOR, excluding items reported in Part 4(d) and (f) through (k);
- f. This section is used for expenses that are to be tracked and reported separately when requested by the United States Trustee;
- g. Enter total depreciation and/or amortization expenses during the reporting period (do not include depreciation or amortization included in Part 4(b));
- h. Enter total interest expenses incurred during the reporting period;
- i. Enter the total of all tax expenses during the reporting period;
- j. Enter the total of all reorganization items incurred during the reporting period as required by SOP 90-7, as amended. Reorganization items are generally those income or expense items that are incurred only because of the filing of the bankruptcy case. Such items include professional fees, United States Trustee quarterly fees, interest income, and realized gains and losses resulting from the reorganization and restructuring of the business;
- k. Enter the net profit (loss) for the most recent period and cumulatively since the date of the order for relief.

Part 5: Professional Fees and Expenses. Enter the requested information for professionals' fees and expenses.

- a. Enter all court-approved professional fees and expenses of the debtor for bankruptcy-related services, specifying amounts approved during this reporting period and cumulatively since the beginning of the case, as well as amounts actually paid during this reporting period and cumulatively. Bankruptcy-related fees and expenses are those which would not have been incurred but for the bankruptcy.
- b. Enter the court-approved professional fees and expenses of the debtor for services that are not related to the bankruptcy case, specifying amounts approved during this reporting period and cumulatively since the beginning of the case, as well as amounts actually paid during this reporting period and cumulatively.
- c. Enter the total professional fees and expenses approved by the court for the reporting period and cumulatively since the beginning of the case. These sums should include fees and expenses of professionals retained by the debtor, as well as fees and expenses of professionals retained by any official committee. Also enter the total amounts paid for the reporting period and cumulatively since the beginning of the case.

Part 6: Taxes (Postpetition). Enter the postpetition income and payroll taxes accrued and paid and the cumulative amounts accrued and paid to date. Use Part 6(e) and (f) for any other taxes that have been accrued and paid (e.g., personal property, use, real estate, sales, excise, or occupational taxes).

Part 7: Questionnaire. These questions should be answered either yes or no. If questions (a), (b), or (g) are answered with a yes, then a detailed explanation should be filed with the court along with the MOR. The explanation for questions (a) and (b) should include the date, name of payee, and amount of payment. The explanation must be filed as a separate document rather than attached to the MOR.

If any part of question (i) is answered with a no, then a detailed explanation should be filed with the court along with the MOR. The explanation must be filed as a separate document rather than attached to the MOR.

The questions in Part 7 should be self explanatory, although additional detail for questions (c) and (f) is provided below. If you have any questions, please contact your local Office of the United States Trustee.

Part 7(c): Insider Payments. A description of those persons who are “insiders” is set forth in Section III of these instructions. If the debtor provided monetary payments or other valuable benefits to or on behalf of insiders during the reporting period, the United States Trustee may require the debtor to complete the Schedule of Payments to Insiders. Such payments include salaries, expense reimbursements, and payment of premiums on life insurance policies. Non-cash benefits, such as use of the debtor's

equipment, plane, automobiles, or apartments, should be reported by entering the cash equivalent value of such use as determined by fair market value.

Part 7(f): Trust Fund Taxes. State whether all trust fund taxes have been paid, e.g. payroll and sales taxes collected by the debtor.

Part 8: Individual Chapter 11 Debtors (only). Individual debtors must report gross salary and wages income in Part 8(a). Individual debtors who are self-employed must report gross self-employment income in Part 8(b). Enter the amount of income received from investments, interest, or any other sources in Part 8(c). Total income in the reporting period is recorded in Part 8(d), which is the sum of subparagraphs (a), (b), and (c). Self-employment expenses must be reported in Part 8(e). If unusual or significant unanticipated expenses (not included in paragraph (e)) were incurred, record them in Part 8(f) and attach a statement of these expenses (for example, major repairs or other non recurring expenses) to the MOR. The total expenses are recorded in Part 8(g), which is the sum of paragraphs (e) and (f). The difference between total income and total expenses (paragraph (d) minus paragraph (g)) is recorded in Part 8(h). In Part 8(i), individual debtors must report the amount of all postpetition debts that are past due. Part 8(j) requires debtors to identify whether they are required to pay any domestic support obligations under 11 U.S.C. § 1129(A)(14) and, if so, Part 8(k) requires debtors to identify whether such obligations have been paid.

III. SUPPORTING DOCUMENTATION THAT THE UNITED STATES TRUSTEE MAY REQUIRE WITH THE MOR

The debtor or trustee, at the discretion of the United States Trustee, may be required to submit supporting schedules with the MOR. Debtors and trustees should review the United States Trustee's regional Web site to ascertain what documentation and additional information must be included with the MOR when it is submitted to the United States Trustee and served on others. Failure to submit the supporting documents and additional information may be considered a failure to file a completed report. The debtor or trustee may use electronically generated supporting schedules as long as the information provided is substantially the same, and in a similar format, to the supporting schedules described below, unless otherwise directed by the United States Trustee. For jointly administered debtors, the supporting schedules must be provided for each debtor.

Statement of Cash Receipts and Disbursements. This includes cash receipts and cash disbursement activity for accounts at all banks and other financial institutions (including brokerage, money market, and mutual fund accounts). The information provided should reflect the debtor's book balances. It is not intended to reflect bank statement balances. All funds received and disbursed are to be included and listed by bank and financial institution account. Funds reported in the receipts section must be broken down by sources, such as sales/accounts receivable, loans, sale of assets, gifts, and equity contributions. Disbursements must be broken down by payments issued for ordinary operations, professionals, capital improvements, and any pay-down of debt, including debt satisfied by a daily sweep of a lockbox or concentration account by the DIP lender. The receipts and disbursements sections should contain a breakout

for transfers between the estate bank and financial institution accounts. Disbursements made by third parties for the benefit of the bankruptcy estate must be reported in Part 1(e) of the MOR. Supporting documentation (such as a settlement statement from an escrow account) may be required at the discretion of the United States Trustee. The disbursements used in calculating quarterly fees are derived from the information provided in this section of the report.

For jointly administered chapter 11 cases, the supporting schedules must include a schedule of total cash disbursements made during the period by or on behalf of each debtor.

Balance Sheet. The Balance Sheet is to be prepared as of the last day of the month covered by the MOR. The debtor should close its books and records on the date the petition was filed to determine the prepetition liabilities and retained earnings as of that date. The prepetition and postpetition liabilities must be reported separately in accordance with GAAP.

Statement of Operations (Profit or Loss Statement). The Statement of Operations schedule includes actual financial information for the month of the MOR, cumulative results for the entire period since the case began, and a forecast for the following month. The first report for the case will cover only operations from the date of the bankruptcy filing to the end of the first full month in chapter 11. Recognizing that complete and accurate cut-off for all income statement and balance sheet items may not be possible, the debtor should make reasonable efforts to determine the cut-off of prepetition and postpetition operating results. Unless an alternate accounting method of reporting has been approved by the United States Trustee, this schedule is to be on the accrual basis using GAAP applied on a consistent basis. The Statement of Operations must include all revenue and expense detail required under GAAP, including the information required by SOP 90-7, as amended, and Codification Section 852, as amended.

Accounts Receivable Aging. This schedule is an aged summary of accounts receivable including total receivables, net of doubtful accounts. It is not necessary to attach a detailed listing of the receivables unless requested by the United States Trustee.

Postpetition Liabilities Aging. This schedule is an aged summary schedule of postpetition liabilities segregated by general payables, amounts owed to professionals, taxes, etc. It is not necessary to attach a detailed listing of the payables unless requested by the United States Trustee. Prepetition payables are not to be included in this schedule.

Statement of Capital Assets. Capital assets are those assets that are capitalized on the balance sheet upon acquisition and that are expected to benefit one or more future operating periods. Capital assets may be tangible, such as buildings or equipment, or intangible, such as trade names or licenses. Most capital assets are depreciated or amortized, although some will have an indefinite life and may only be evaluated for impairment in value. Debtors are prohibited from acquiring or disposing of capital assets without order from the court if the acquisition or disposition of such assets is outside the ordinary course of the debtor's business. The capital assets schedule should include the book value (or reasonable estimate thereof) of the assets on the date of the filing, the book value at the beginning of the reporting period, additions, deletions (including depreciation), and book value at the end of the reporting period.

Schedule of Payments to Professionals. This schedule should set forth all fees and expenses for all professionals employed in the bankruptcy case, separately reported for the most recent period and cumulatively from the date of the order for relief. The debtor must separately report those professional fees that are included as a component of reorganization items from those that are included in operating expenses. The schedule discloses the amount of any prepetition and postpetition retainer(s), the amount of compensation and expenses approved for each professional, and the amounts paid each professional during the reporting period. Amounts applied towards retainers also must be reported. In those circumstances where the court has entered an order allowing for “ordinary course professionals,” payments to those professionals shall be reported as operating expenses of the debtor.

Schedule of Payments to Insiders. This schedule includes all payments made by the debtor to any person or entity that is an insider during the period covered by an MOR. The Bankruptcy Code defines the word “insider” in the following way^{1/}:

If the Debtor is	Insiders Include
An Individual	<p>Relatives of the debtor, or of a general partner of the debtor.</p> <p>Partnerships in which the debtor is a general partner.</p> <p>General partners of the debtor.</p> <p>Corporations in which the debtor is an officer, director, or person in control.</p>
A Corporation	<p>Directors, officers, or other persons in control of the debtor.</p> <p>Partnerships in which the debtor is a general partner.</p> <p>General partners of the debtor.</p> <p>Relatives of any officer, director, general partner, or person in control of the debtor.</p>
A Partnership	<p>General partners in the debtor.</p> <p>Relatives of a general partner in, general partner of, or person in control of the debtor.</p> <p>Partnerships in which the debtor is a general partner.</p> <p>General partners of the debtor.</p> <p>Persons in control of the debtor.</p>
Any of the Above	<p>An affiliate, or insider of an affiliate, of the debtor.</p> <p>Managing agent of the debtor.</p>

The supporting schedule of payments to insiders must disclose the date, amount, recipient, account used, and reason for each payment made by the debtor to an insider during the

^{1/} See 11 U.S.C. § 101(31)

time period covered by the MOR. You should consult your attorney if you are not sure whether a payment by the debtor was made to an insider.

Bank Statements and Bank Reconciliations. Bank statements and reconciliations should reflect all bank accounts and banking transactions as required by the United States Trustee.

Schedule of Asset Sales. The United States Trustee may require the debtor to prepare a schedule of all assets sold or transferred outside of the ordinary course of business, including the pricing and other terms of such sales or transfers.